

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

A REVIEW OF THE ADEQUACY OF )  
KENTUCKY'S GENERATION CAPACITY ) ADMINISTRATIVE  
AND TRANSMISSION SYSTEM ) CASE NO. 387

PETITION OF  
LOUISVILLE GAS AND ELECTRIC COMPANY  
FOR CONFIDENTIAL PROTECTION

Louisville Gas and Electric Company ("LG&E") by counsel, petitions the Kentucky Public Service Commission ("Commission") pursuant to 807 KAR 5:001 Section 7 to grant confidential protection to certain information filed pursuant to Appendix G of the Commission's Order of December 20, 2001.

In support of this petition, LG&E states as follows:

1. On December 20, 2001, the Commission issued an Order with its findings following an investigation and review of the adequacy of Kentucky's generation capacity and transmission system. In an effort to continue monitoring these issues, the Commission ordered Kentucky's six major jurisdictional electric utilities to file certain planning-related information, as defined in Appendix G to the Commission's December 20, 2001 Order, by March 1<sup>st</sup> of each year and by July 1<sup>st</sup> of each year. In Item No. 11, the Commission ordered LG&E and the other jurisdictional electric utilities to provide information concerning scheduled outages or retirements of generating capacity.

2. In connection with the information provided in response to Item No. 11, the Commission has ordered LG&E to provide details of scheduled outages or retirements of generating

capacity for current year and the following four years. LG&E is requesting confidential protection of the entire maintenance schedule. The information contained in this response and for which LG&E is seeking confidential protection is identical in nature to that provided to the Commission in response to the Commission's requests for information in Case No. 2000-498 and previously in this proceeding. The Commission granted confidential protection to LG&E's planned maintenance schedule for each of LG&E's generating units. This information would allow competitors to LG&E to know when LG&E's generating plants will be down for maintenance and thus know a crucial input into LG&E's generating costs and need for power and energy during those periods. The commercial risk of the disclosure of this information is that potential suppliers will be able to manipulate the price of power bid to LG&E in order to maximize their revenues.

3. KRS 61.878(1)(c) protects commercial information, generally recognized as confidential or proprietary, if its public disclosure would cause competitive injury to the disclosing entity. Competitive injury occurs when disclosure of the information would give competitors an unfair business advantage. The attached information contains such competitive and proprietary information, and is therefore being submitted with a request for confidential treatment.

4. The information sought to be protected was developed internally by LG&E personnel. The information is not on file with the Federal Energy Regulatory Commission, the Securities and Exchange Commission or other public agencies, and is not available from any commercial or other source outside of LG&E. Distribution of the information within LG&E is limited to those employees who have a business reason to have access to the information.

5. The information described in Paragraph 2 above is confidential and proprietary information which should not be disclosed in the public record. Disclosure of this information would provide unfair commercial advantages to LG&E's competitors in the wholesale market for

bulk and off-system power sales. The passage of the Energy Policy Act has brought extensive competition to the electric wholesale market and introduced numerous new marketers, brokers, and clearinghouses, and many new sources of non-utility generation of power. The change in federal law has caused electric utilities to file nondiscriminatory open-access transmission tariffs and applications for approval of market-based wholesale power rates with the Federal Energy Regulatory Commission. The FERC has authorized utilities, including LG&E, to charge market-based prices for wholesale power transactions and approved open-access transmission services tariffs. See Kentucky Utilities Company, 71 FERC Par. 61,250 (May 31, 1995). All of these regulatory developments and changes in the law have created a robust and competitive wholesale market for bulk and off-system power sales.

6. LG&E's information regarding monthly coincident peak off-system demands, base case and high case off-system demand and energy forecasts, and scheduled outages or retirements of generation capacity constitutes information that is generally recognized as confidential. This information must remain confidential if the wholesale power market is to remain competitive and LG&E is to continue to compete for wholesale sales and purchase wholesale power at competitive prices. Disclosure of this information could provide suppliers with LG&E's expectations about the price of supplies in the future and would allow suppliers to take advantage of LG&E's solicitations by increasing their bids to the maximum extent possible, thereby causing higher prices for LG&E's customers, and would give commercial advantages to LG&E's competitors.

7. The information provided in response to Item No. 11 of Appendix G to the Commission's December 20, 2001 Order demonstrates on its face that it merits confidential protection. If the Commission disagrees, however, it must hold an evidentiary hearing to protect the due process rights of LG&E and supply the Commission with a complete record to enable it to reach

a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., Ky. App., 642 S.W.2d 591, 592-94 (1982).

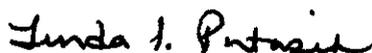
8. LG&E does not object to disclosure of the confidential information, pursuant to a protective agreement, to intervenors with a legitimate interest in reviewing the confidential information for the purpose of assisting the Commission's review in this proceeding.

9. In accordance with the provisions of 807 KAR 5:001(7), LG&E is filing with the Commission one (1) set of the confidential information provided in response to Item No. 11 of Appendix G to the Commission's December 20, 2001 Order with the information highlighted and marked confidential and ten (10) sets of the response without the confidential information.

**WHEREFORE**, Louisville Gas and Electric Company respectfully requests that the Commission grant confidential protection for the information at issue, or schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: July 1, 2003

Respectfully submitted,



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